



East Cambridgeshire District Council

Custom and Self-Build Housing

Supplementary Planning Document (SPD)

Draft for Consultation February 2020

Note: this is a draft as presented to Finance and Assets Committee on 6 February 2020. If approved for consultation, this box will be removed prior to publication.

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Foreword

This Supplementary Planning Document (SPD) provides guidance to all who are interested in custom and self-build housing.

East Cambridgeshire District Council has an ambition to help deliver housing for all sections of the community, where and how communities want it. Custom and self-build housing could be a route for some to get on to the property ladder and for others to build their 'dream home'.

We are consulting on a draft of this document, **between xxx and xxx**. We invite you to make your comments on this SPD, in particular on how it can be made easier to understand, and if you think it should include any topic or further advice that currently is not included in the document. Comments made during this consultation period will be carefully considered and changes will be made in light of these comments where we think it is appropriate. **For your comments to be considered, please ensure that they reach us before the deadline.**

After the consultation, we will make the changes that are necessary and then the final version of the SPD will be adopted at an appropriate meeting of East Cambridgeshire District Council.

Introduction

1.1 Purpose and scope of this document

- 1.1.1 The purpose of this Supplementary Planning Document (SPD) is to provide guidance for those seeking to build custom and self-build housing in East Cambridgeshire.
- 1.1.2 The SPD will be of particular relevance to self-build plot providers, developers building more than 100 dwellings, communities involved in Neighbourhood Planning, Community Land Trusts and anybody else wishing to build their own home.
- 1.1.3 The SPD must be considered in the light of the wider planning policy context, including the East Cambridgeshire Local Plan, a Neighbourhood Plan (if one exists in the area of the proposed development) and the National Planning Policy Framework.

1.2 Adoption

- 1.2.1 When adopted, the SPD will become a material consideration when determining planning applications. This SPD will be updated should the need arise due to changes in national or local policy on custom and self-build housing.
- 1.2.2 If you have any questions about this document, please contact the Strategic Planning Team on 01353 665555 or email planningpolicy@eastcambs.gov.uk

1.3 Context and Introduction

- 1.3.1 East Cambridgeshire District Council has had a long standing desire to promote and support self-build housing, and has done so well before national policy brought national attention to this form of development. This SPD is important in delivering our aspiration to help prospective self-builders. The SPD sets out the Council's expectations in helping deliver custom and self-build housing.
- 1.3.2 The Council recognises the benefits of custom and self-build housing to East Cambridgeshire residents. Some of the benefits are listed below:-
- Opportunity to provide lower cost housing for residents
 - Enable more self-build housing to be provided via community-led development
 - Help to provide jobs for local residents, in particular in the construction industry
 - Support a more resilient supply of housing from a diversity of sources, not just volume house builders
 - Encourage good and distinctive design and sustainable construction

1.4 What is a Custom and Self-Build House?

- 1.4.1 In summary, there is little difference between the two forms of development, with custom build being where a person commissions a specialist developer to help to deliver their own home, whilst self-build is where a person is more directly involved in actually organising and constructing their home. In this SPD, the Council follows the definition of self-build and custom house building as set out in the Self-Build and Custom Housebuilding Act 2015 (as amended by the Housing and Planning Act 2016) as outlined below.

“(A1) In this Act “self-build and custom housebuilding” means the building or completion by—
(a) individuals,
(b) associations of individuals,
or (c) persons working with or for individuals or associations of individuals, of
houses to be occupied as homes by those individuals.

(A2) But it does not include the building of a house on a plot acquired from a person who builds the house wholly or mainly to plans or specifications decided or offered by that person.”

- 1.4.2 As can be seen above, custom and self-build dwellings therefore share the same legal definition.
- 1.4.3 To help the Council decide whether a proposed, or completed, home is covered by the above definition, the Council must be satisfied that the initial owner of the home will have (or has had) primary input into its final design and layout. This would mean the applicants will have to provide evidence of their input into design process of the self-build dwelling. If the Council is not satisfied that this test has been met, the home will not be considered as being a custom or self-built dwelling.
- 1.4.4 To put it another way, and by way of examples only, a new dwelling would not be classed as a self-build or custom built home:
- If a developer built a dwelling, and sold it on the open market.
 - If the future occupier of the dwelling chose a design for the dwelling from a collection of stock designs offered by a developer.
 - If there is no evidence that the future occupier had a primary input into the design of the building, even if the building appears to be a ‘one-off’ bespoke design. Or
 - If the applicant has submitted a reserved matters application with house design and layout etc. for approval before marketing the plots to self-builders.
- 1.4.5 In some circumstances, it is possible for a community to get together and provide a self-build scheme consisting of self-build plots. Each plot is then developed by the owners of the plot according to their design and specifications. Such a scheme would be treated in a similar way to self-build as each plot is brought forward for planning permission and development.

Policy and Guidance

2.1 Custom and Self- Build National Policy and Guidance

- 2.1.1 National planning policy is provided in the National Planning Policy Framework (NPPF – February 2019). There is only limited reference to custom and self-build housing within it. In the section dealing with delivering a sufficient supply of homes, paragraph 61 of the NPPF says (emphasis added):

*“Within this context, the size, type and tenure of housing needed for different groups in the community should be assessed and reflected in planning policies (including, but not limited to, those who require affordable housing, families with children, older people, students, people with disabilities, service families, travellers, people who rent their homes and **people wishing to commission or build their own homes**²⁶).”*

The associated NPPF Footnote 26 states:

“Under section 1 of the Self Build and Custom Housebuilding Act 2015, local authorities are required to keep a register of those seeking to acquire serviced plots in the area for their own self-build and custom house building. They are also subject to duties under sections 2 and 2A of the Act to have regard to this and to give enough suitable development permissions to meet the identified demand. Self and custom-build properties could provide market or affordable housing.”

- 2.1.2 The glossary of the NPPF also defines such housing as follows:

*“**Self-build and custom-build housing:** Housing built by an individual, a group of individuals, or persons working with or for them, to be occupied by that individual. Such housing can be either market or affordable housing. A legal definition, for the purpose of applying the Self-build and Custom Housebuilding Act 2015 (as amended), is contained in section 1(A1) and (A2) of that Act.”*

- 2.1.3 In addition to the NPPF, government publishes ‘live’ National Planning Policy Guidance (NPPG), a web-based resource which brings together planning guidance on various topics into one place. It was launched in March 2014 and provides government guidance, not policy, and is subject to change at any time.
- 2.1.4 At the time of preparing this SPD, the NPPG provides little additional guidance on custom and self-build homes for planning decision making purposes, it simply pointing to the Act and Regulations. It does, however, offer fairly extensive information on the obligation of Local Planning Authorities (LPA) to keep a ‘self-build register’ (see later in this SPD for more information on the East Cambridgeshire register).

2.2 Custom and Self Build Local Area (East Cambridgeshire) Policy

- 2.2.1 The East Cambridgeshire Local Plan¹ was adopted in April 2015. Although the Plan does not contain a specific custom and self-build housing policy, a key policy in helping to deliver such housing is HOU1: Housing Mix. The relevant part of this policy is as follows:

“Developments of 100 or more dwellings will be expected to provide a minimum of 5% self-build properties. The inclusion of self-build properties on smaller sites will also be encouraged.” (extract from Policy HOU1: Housing mix)

¹ <https://www.eastcambs.gov.uk/local-development-framework/east-cambridgeshire-local-plan-2015>

2.2.2 The supporting text to the policy also includes the following:

“The development of self-build properties by individuals or community groups (including Community Land Trusts) can also contribute to meeting the need for additional housing within the district, and provide a more diverse housing stock. The policy below proposes that larger housing schemes should include an element of self-build plots, to facilitate this diversity. Where this policy would result in the requirement relating to part of a dwelling the calculation will be rounded upwards to ensure that at least the minimum requirement is met.”

2.2.3 Thus, the policy is clear that developers must provide a minimum of 5% self-build properties on a development scheme of 100 or more dwellings. Following experience of implementing the policy since its adoption in 2015, the Council considers the following additional supplementary policy / guidance is necessary:

Policy SPD.SB1: Interpretation and Application of Policy HOU1

In implementing Policy HOU1 of the 2015 Local Plan (or any similar policy in any Neighbourhood Plan or in any superseding Local Plan), the Council will apply the following criteria:

- (A) Where Policy HOU1 refers to ‘self-build properties’, this will be interpreted to mean ‘self-build and custom housebuilding’ as defined by Self-Build and Custom Housebuilding Act 2015 (as amended). Where there is doubt as to whether a property (or plot) will meet such a legal definition, then the precautionary principle will be applied and it will be assumed to not meet the definition. The onus, therefore, is on the applicant to clearly demonstrate beyond reasonable doubt that the property (or plot) will meet the full legal definition as set out in the Act.
- (B) The ‘minimum of 5%’ requirement in Policy HOU1 applies to all dwellings proposed on site, and not just market housing. Thus, for example, a development proposal comprising 80 market homes and 35 affordable homes (total 115 units) would not be exempt from the policy which expects the provision of a minimum of 5% of the total number of all properties to be self-build.
- (C) A plot, forming part of a wider scheme, which is put forward by a developer as a self-build or custom housebuilding plot does not constitute an ‘affordable dwelling’ for the purpose of meeting the Council’s expectations in respect of affordable housing on that particular site. The requirements for affordable housing and self-build properties are dealt with entirely separately. Whilst it is possible for a self-build or custom build property to meet the definition of an affordable dwelling under national and local policy, it is unlikely in most instances to do so, and would require specific legal agreements confirming the delivery of such units.
- (D) Where a site is expected to provide ‘a minimum of 5% self-build properties’, then the interpretation of minimum means that any rounding of calculations should be upwards to the nearest whole dwelling so as to ensure the minimum is met. For example, a scheme of 105 units the Council would expect 6 self-build properties ($105 \times 0.05 = 5.25$, which is rounded up = 6 units).

(E) Where a plot is set aside as a self-build or custom housebuilding plot for the purpose of meeting the minimum 5% expectation, then such a plot must have, or be capable of being provided with, the following:

- (i) a parcel of land with legal access to a public highway; and
- (ii) water, foul drainage and electricity supply available at the plot boundary.

2.2.4 Where a planning permission is granted consent, but such consent is restricted in some way so as to ensure the delivery of custom or self-build housing, there may be instances where, despite the best endeavours of the landowner, insufficient interest in purchasing designated custom and self-build housing plots exists. In such instances, the Council accepts that the best overall outcome would be for such plots to be released from their obligation to be custom and self-build housing, and instead come forward for alternative development (eg market housing).

2.2.5 However, the Council is mindful that developers could use such acceptance to their advantage, by placing barriers to the sale or delivery of self-build and custom housebuilding plots, so that the obligations to provide such dwellings are removed and more profitable market housing provided. To avoid such a scenario, the following policy applies:

Policy SPD.SB2: Making plots available and fall-back position for unsold plots

Where self-build and custom housebuilding plots are to be provided in line with Policy HOU1, then prior to 50% of all homes on the site being occupied, the following will be required (and secured via a legal agreement):

- the plots will have all minimum services and vehicular access provided to base course level; and
- the plots will be marketed for sale (at a fair market price or lower) to individuals on the open market and (via the Council) the Self Build Register.

If after (whichever is the latest of):

- (a) 2 years from the occupation of 50% of all homes; or
- (b) the sale of all other dwellings within the site,

contracts for the sale of any plots have not been exchanged, the relevant plots may (subject to consent from the Council, and such consent will not be unreasonably withheld) be:

- (i) retained by the landowner and used for alternative appropriate purposes; or
- (ii) sold on the open market free from any encumbrance to provide self-build or custom housebuilding plots.

2.2.6 The Council will need to be satisfied that both policies in this SDP are complied with. Evidence would need to be submitted for some criteria such as input into the design process of the dwelling by potential owner(s) of the property. Also when selling the self-build plots, evidence will be required that these were marketed at fair price or lower and for sufficient length of time before the Council would consider lifting self-build conditions on the plots.

2.2.7 Policy HOU 1 is the key policy that will help to deliver self-build and custom housebuilding in East Cambridgeshire. Of course, however, all other policies in the Local Plan (and any applicable

Neighbourhood Plan) should also be considered when planning such housing. Some of the relevant policies are listed below by way of example;

- HOU 1: Housing Mix (i.e. the wider elements of the policy, in addition to the self-build properties element)
- HOU 2: Housing density
- HOU 3: Affordable housing provision
- ENV1: Landscape and Settlement Character
- ENV 2: Design
- ENV 4: Energy and water efficiency and renewable energy in construction
- ENV7: Biodiversity and Geology
- ENV 8: Flood risk
- COM 7: Transport impact
- COM 8: Parking provision

2.3 Custom and Self-build Homes and Affordable Housing

2.3.1 The above Policy SPD.SB1 makes reference to custom and self-build housing and the provision of affordable housing. Under certain circumstances, it is possible that custom and self-build housing be used for delivering genuine affordable housing. For example:

- Serviced building plots are made available below market value and are subject to a legal agreement that restricts the resale value of the completed property to below market value
- Homes are built as shared ownership properties – for example where a housing association or Council constructs the homes to the waterproof ‘shell’ stage and then enables private homebuilders to enter into a special form of shared ownership lease to complete the property. Once the work is satisfactorily completed this earns the homebuilder an equity share in the property, which means they need a smaller mortgage or a lower deposit
- A developer or landowner could work in partnership with a recognised Housing Association or alternative affordable housing provider; or
- Where a self-builder commits (via an agreed legal document) that the resale of the dwelling shall be restricted to an eligible household for at least a 20% discount on market prices.

2.3.2 However, there is no obligation on the Council to accept custom and self-build housing to be counted as part of the developer’s obligation to provide affordable housing. Where it does so, the Council would have to be satisfied that such provision genuinely was affordable housing (in accordance with national definitions), and would remain so. In reality, due to the complexities involved, it would appear unlikely many, if any, custom and self-build housing will be officially classed as genuine affordable housing.

2.3.3 The Council is mindful that when affordable housing is included as part of the self-build allocation, the Council would require some guarantees that these plots will be sold/rented to someone who meets the definition of being in housing need. It is likely that the Council will put a condition within the S106 to allow the Council to revisit the affordable self-build allocation if these plots do not sell after six months of being advertised. If no sale is agreed the Council could ask for a reasonable land value capture for the loss of the affordable self-build plot.

2.3.4 In the event of a 100% self-build scheme is large enough to generate the need to provide affordable housing then the Council will expect affordable housing to be provided on site. Only in exceptional circumstances will the Council consider off-site provision or a financial contribution in lieu of provision. Applicants will be expected to justify why affordable housing should not reasonably be provided on-site; for example, where there may be difficulties over the delivery,

design or management of small numbers of affordable units within a development. Therefore, the affordable housing requirement for 100% Self Build sites will be secured using the following hierarchy:

- 1a) Offered to Registered Providers (RP) as affordable self-build. If the developer can demonstrate that no RP will take on the site as affordable self-build then;
- 1b) Developer to build affordable housing units for transfer to an RP. IF no RP will accept the units;
- 1c) A commuted sum in lieu of part/all of the provision required will be payable.

2.3.5 If viability demonstrates delivery cannot be on-site a commuted sum in lieu of part/all of the provision required will be payable. If the Council agrees to accept a commuted sum in lieu of part/all of the provision required, the sum required will be of equivalent value to the contribution that would have been provided by on-site provision, i.e. the cost of delivering the Council's policy requirement on the application site.

2.3.6 In order to calculate this sum, the applicant must agree with the Council a notional scheme delivering on-site affordable housing in accordance with the Council's policy. The applicant should submit a financial assessment of this scheme using the HCA's Development Assessment Tool, together with an assessment of the actual scheme proposed. The commuted sum required will be the difference between the residual land values of the notional scheme and the actual scheme. The Council may seek independent valuation advice, and the applicant will be responsible for any costs incurred.

2.3.7 Commuted sums will be paid to the Council prior to the occupation of the first dwelling. The Council will spend commuted sums to increase or improve affordable housing provision in the district and/or to support its other statutory housing functions e.g. prevention of homelessness. The Council will endeavour to prioritise the spending of commuted sums to benefit the locality from which the contribution was raised.

2.3.8 The Council's Developer Contributions SPD sets out the process for securing Affordable Housing.

2.4 Standard Conditions and S106 Obligations

2.4.1 For transparency and to hopefully speed up the consideration and approval process of schemes involving self-build or custom housebuilding, the Council provides the following standard conditions and s106 clauses.

2.4.2 However, all proposals will be treated on their merits, and the following may not be suitable in all circumstances. They should be treated, therefore, as a starting point for discussion.

Standard Conditions:

- (A) The self-build dwellings hereby approved will be developed as single plots as shown on the drawings submitted and specified in condition 1 and shall be completed in phases.
- (B) The development hereby permitted consists of solely self-build dwellings as defined in the Custom Housebuilding Act 2015.
- (C) The details to be submitted at reserved matters stage for the self-build plots shall follow the principles on the submitted layout plan drawing number XXX dated XXX and the Self Build Design Code dated XXX.

- (D) The development shall be carried out in accordance with the approved Phasing Plan, drawing ref XXX, received XXX. Each reserved matters application will need to show how it complies with the phasing plan and its relationship with each plot/phase and submit a street scene to demonstrate the relationship with other approved plots/phases.

Standard s106 clauses:

- I. Prior to first occupation of Xth (e.g. 50th) market house unit the self-build area shall have all services and vehicle access provided to base course level;
- II. Prior to first occupation of Xth (e.g. 50th) market house unit the self-build area shall be marketed for sale at full market value or below to individuals on the open market and on the Self-Build Register;
- III. If after (whichever the latest of) (1) 2 years after the form the occupation of Xth (e.g. 50th) Market Housing unit; or (2) the sale of all dwellings within the site (excluding the self-build area), contracts for the sale of any of the plots within the self-build area have not been exchanged, the relevant self-build dwelling may be either constructed as a Custom Build home or sold on the open market free from any self-build encumbrance.

Custom and Self Build Homes: Other Matters

3.1 Community Infrastructure Levy (CIL)

- 3.1.1 CIL is a planning charge, introduced by the Planning Act 2008, as a tool for local authorities in England and Wales to help deliver infrastructure to support the development of their area. It came into force on 6 April 2010 through the Community Infrastructure Levy Regulations 2010. CIL charging has been operating in East Cambridgeshire since February 2013.
- 3.1.2 CIL regulations were amended in 2014 to make provision for exemption for self-build housing. In simple terms, a self-build home, if appropriately qualifying as such and if appropriate documentation is provided to the Council in a timely manner, would not need to pay any CIL charge. The legislative framework behind this exemption is quite complicated, and therefore if you intend to seek such exemption, you should seek appropriate advice. Council officers are available to assist. However, at the time of writing, a crucial part of gaining such exemption is that an individual claiming the exemption must own the property and occupy it as their principal residence for a minimum of 3 years after the work is completed.

3.2 Neighbourhood Planning

- 3.2.1 A Neighbourhood Plan is a way of helping local communities to influence the planning of the area in which they live and work. In East Cambridgeshire, only your local Parish Council can prepare such a Plan. It can be used to:
- Develop a shared vision for your neighbourhood.
 - Choose where new homes, shops, offices and other development should be built.
 - Identify and protect important local green spaces.
 - Influence what new buildings should look like.
- 3.2.2 Neighbourhood Plans may propose to alter non-strategic Local Plan policies where a local need can be demonstrated. Policy HOU1 of the Local Plan is not considered a strategic policy and therefore, where evidenced, Neighbourhood Plans may propose a requirement for the provision of self-build and custom housebuilding which differs from that set out in the East Cambridgeshire Local Plan.
- 3.2.3 An applicant should therefore always check to see whether a Neighbourhood Plan exists (or is well advanced) for the area in which the proposal will fall, to determine whether any alternative self-build or custom housebuilding requirements have been set.

3.3 Self-build and Custom Housebuilding Register

- 3.3.1 Following the Self-build and Custom Housebuilding Act 2015², and the subsequent Housing and Planning Act 2016³, and in accordance with the Self-build and Custom Housebuilding (Register) Regulations 2016⁴, East Cambridgeshire District Council maintains a Custom and Self-build register in order to monitor interest and to quantify the volume of plots for which suitable planning permission should be granted. The Register is open to all who have an interest in custom or self-build within the District. Whilst not obligatory, entering your name on the register is often the first stage for those people wishing to engage in self-build. Further details on the East Cambridgeshire register can be found here:
<https://www.eastcambsgov.uk/local-development-framework/register-interest-self-build-and-custom-housebuilding>

² http://www.legislation.gov.uk/ukpga/2015/17/pdfs/ukpga_20150017_en.pdf

³ http://www.legislation.gov.uk/ukpga/2016/22/pdfs/ukpga_20160022_en.pdf

⁴ http://www.legislation.gov.uk/uksi/2016/105/pdfs/uksi_20160105_en.pdf

3.3.2 The Council must give planning permission to enough suitable serviced plots of land to meet the demand for self-build and custom housebuilding in the area. The level of demand is established by reference to the number of entries added to an authority's register. The Council monitors both demand and provision of permissions in its annual Authority's Monitoring Report (AMR) available on our website⁵.

3.4 Delivering Custom and Self-build Dwellings in East Cambridgeshire

3.4.1 Many self-build plots will come forward on an individual basis (rather than as part of meeting the 5% expectation on a larger development site), meeting the needs of the specific plot owner. These individual plots will highly likely be on 'windfall' (non-allocated) sites in towns or villages, and occasionally in more rural areas in the District.

3.4.2 Where plots come forward as part of larger sites, it is common practice for the 5% self-build minimum element being approved in outline, often in a 'hybrid' style application, with the rest of the wider scheme approved as a full permission. By having outline consent the principle of self-build development on those plots has been established. Outstanding 'reserved matters' (i.e. detailed designs) will have to be submitted and approved by the Council before development could commence.

3.4.3 There are a number of self-build housing schemes that have planning permission in East Cambridgeshire. Most are single dwellings on single plots, though some are coming forward via large sites.

3.4.4 For example, in North Ely a number of custom and self-build housing are to be delivered. The current promoter of the wider site has indicated that they might provide a 'Plot Passport' for the self-build plots. The idea behind 'Plot Passport' is to provide as much information as possible to the potential buyer of the plot so they have information about parameters and what can be built on the site. The Council welcomes the provision of Plot Passports, provided they conform to the consents given to those particular plots, the Design Guide SPD and do not unduly restrict the delivery of self or custom housebuilding on them. Examples of plot passports and design code⁶ can be on the internet.

⁵ <https://www.eastcambs.gov.uk/local-development-framework/monitoring-and-local-development-scheme>

⁶ <https://righttobuildtoolkit.org.uk/briefing-notes/design-codes-and-plot-passports/#>